



Lamoine Board of Selectmen

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Minutes of February 6, 2014

Chair Jo Cooper called the meeting to order at 7:00 PM

Present were: Selectmen S. Josephine Cooper, Bernie Johnson, Gary McFarland, Cynthia Donaldson; Administrative Assistant Stu Marckoon, Robert Christie, David Legere, Heather and Perry Fowler, Michael Jordan, Valerie Sprague, Water and Mary Grenier, Richard McMullen, Kathy Gaianguest, David & Diane Sanderson, Jay Fowler and Carol Korty. Selectman Nathan Mason had informed the Board he would be unable to attend.

Agenda Review – Jo asked to move the receipt of a petition to after the Treasurer's reports. Bernie asked that the Gravel Task Force item be placed before the town meeting warrant.

Warrant 14 – Selectmen signed expenditure warrant 14 in the amount of \$24,855.21.

Cash & Budget Reports – Selectmen had no questions or issues regarding the report.

Checking Account Reconciliation – The Board signed the statement expressing satisfaction with the Checking Account Reconciliation review which had been sent via e-mail prior to the meeting.

Quitclaim Deed – Jo moved to sign a quit claim deed for the sale of tax acquired property on Needles Eye Road (Map 4 Lot 58) to the previous owner, Christian Houmiller. Gary 2nd. **Vote in favor was 4-0.** Selectmen signed the deed; Heather Fowler served as a witness.

Petition Received – The meeting recessed briefly while a memo from Stu to the Board was printed. Jo reported the Selectmen had received another petition. She said at the prior meeting there was an opinion from the attorney regarding issues with a similar petition. She said this was a new petition and read the wording. She said the previous issue was some of the wording, and that apparently has been corrected. She said the town attorney has not seen the new petition. She said she assumes that the wording meets the concerns outlined previously by the town attorney. She said the Board has received it. Stu reported the town clerk verified 126 voters had signed the petition.

Bernie said the board has to act on the petition within 60-days, so there would be time for an attorney to glance at it. Carol Korty, who had submitted the petition to the Town Clerk, said the previous petition that was rejected at the last Selectmen's meeting contained a typo. She said they consulted with an attorney on the new petition.

Jo said she was concerned about being comfortable with the action the Board takes. She said she did not have a problem placing the article on a town meeting warrant. She said there are several ordinance changes already on the town meeting warrant. She noted the Gravel Task Force work may impact things. She said she's not sure, and has no particular agenda. She said she's not sure why this would not be placed on the warrant.

Gary said he would like the town attorney to review the question. Kathy Gaianguet asked if could be placed on the warrant conditionally. Stu said it could not.

Michael Jordan said as the Code Enforcement Officer with a lot of training, the petitioned question is in direct conflict with the Comprehensive Plan. Ms. Korty said Maine Municipal Association advised her that the Comprehensive Plan is a guideline, but the law is the ordinance. She referred to the definitions in the Building and Land Use Ordinance regarding commercial and industrial activity. She said she contends that gravel extraction is no longer a light commercial activity but is indeed an industrial activity.

Jo asked what the options were, saying she wants to make sure the Selectmen do the right thing. Cynthia asked why the board could not sign the warrant next week instead. Stu said that pushes the warrant and town report printing very close to town meeting. Cynthia said the town attorney could look at it, and then the Selectmen could sign the town meeting warrant. Bernie said this is not an emergency measure, and he feels like it would be cramming too much too fast. He said he feels like there ought to be some sort of special town meeting to deal with gravel issues. He said the Selectmen have 60-days to act. Jo said she wanted to make sure the voters have the opportunity to decide.

Bernie said if there were a special town meeting on this petitioned question and other matters, it would not put anyone at a disadvantage. Gary said the task force is discussing gravel and other ordinance matters coming up. He said there could always be a referendum which would require a public hearing. Jo said this is not what the task force is addressing, nor is it what the proposed ordinance changes on the town meeting warrant addresses. She said her issue is giving voters the information they need. A discussion followed on the timing of the town report.

Bernie asked if this was something that has been traditionally voted on at open town meeting or by referendum. There was a brief discussion about referendum versus open town meeting. Gary said he thought public hearings get more information to the public. Cynthia said ordinance changes have traditionally been done at the open town meeting.

Bernie said gravel is a big and divisive issue. He said he could picture some sort of town forum taking place. Jo said her concern is how to handle the petition presented tonight. She said the Selectmen could have a special meeting on how to deal with it. Bernie said it would be better to have all five selectmen present. Jo said the timing of the town report is a concern. Bernie said he was sure that the town attorney could look at the question in a 24-hour period and answer the question about the Comprehensive Plan. Cynthia said the decision to place this on the warrant is a procedural matter – she said the question is whether it's a legal question, and the Selectmen don't make the decision the voters do. Jo said she would like to give the chance to ask the question of the town attorney and she understands the petitioners want it on the annual warrant.

Jay Fowler said the Selectmen should not act in haste and a few more days won't hurt. Ms. Gaianguet gave an interpretation of the petition law and a brief discussion followed.

Perry Fowler said normally an ordinance change would go before the Planning Board with a public hearing. He said this ordinance change is not coming from the Planning Board. Bernie said he would like to hear the Planning Board's opinion on it. He said he wondered how he would gather information to make his own decision.

Ms. Korty said any voter can put up a petition for an ordinance, and there is nothing about holding an open meeting. A brief discussion followed regarding an informational meeting.

Jo said a lot of folks in the town are not aware of the issue and the petitioners might want more time. Jay Fowler said on a previous petition the Selectmen decided not to present it to the town. It was clarified the right number of signatures are required and the question has to be legal.

Bernie said if there was a referendum vote with a public hearing, the information would be out and that would be a good way to do it. Gary moved to turn the petition over to the attorney to review it, specifically in regard to the Comprehensive Plan. Jo 2nd. Cynthia asked about the time frame. Gary said as soon as possible; he didn't know the town attorney's schedule. Jo said she would not put a time frame on it. She said she's uncomfortable rushing into something. She said there is nothing the Selectmen didn't know already but there are some questions.

Jo said the Selectmen have to decide whether to sign the full town meeting warrant. She said the Board can't delay that too long. Gary said he thinks the annual town meeting warrant should be signed. He then restated the motion to include signing the annual town meeting warrant tonight, and to send the question to the attorney with a response as soon as possible. Bernie 2nd.

Ms. Gaianguet asked how a petition gets turned into a referendum. Jo said it's up to the Selectmen to decide the method of town meeting vote. Ms. Korty said there is more discussion at an open town meeting instead of a public hearing. She said the petitioners are eager for this to be on the March 12, 2014 town meeting warrant.

David Sanderson said the town attorney had the previous petition for a couple of weeks. He said the petitioners had an attorney work quickly for them. Cynthia said she would vote no on the motion. She said she would like to have the town attorney see the petition and then vote to sign the warrant next week. There was a brief discussion on the timing of the town report and signing the warrant so that it could be included in the town report in time for town meeting.

Jo said she didn't see a problem with putting the matter on the warrant, but would like to have the question answered by the town attorney. Gary withdrew his motion and Bernie withdrew the 2nd.

Gary made a new motion to have the petition reviewed by the town attorney with an opinion back by next Thursday. Stu said he didn't know which version of the warrant the Selectmen would want to sign ahead of time. A brief discussion followed on preparing two versions of the warrant for signature. Walter Grenier asked if the Selectmen signed

the warrant tonight and the attorney said the question was not proper, would the warrant be null and void. Bernie said if the warrant is signed tonight, the petitioned question would not be on it. Jo said she would prefer to sign the warrant tonight. She said the Board was trying to accommodate the petitioners the best they could. Stu said there is a method, and he's not sure how it works, to have an additional matter considered the same day as an already called town meeting. There was no 2nd to Gary's latest motion

Gary moved to sign the warrant tonight, to send the petition to the attorney for review and have it back in time to decide at the next meeting whether to add the item as an additional matter to consider at the annual town meeting. After a brief discussion, Bernie 2nd. Jo asked about meeting the next day, and a discussion followed regarding public notification. Diane Sanderson asked about the idea of a simultaneous town meeting. Jo said that could be considered next week. **Vote in favor was 3-1 (Donaldson opposed).**

Selectmen signed the town meeting warrant as drafted.

Selectmen signed proposed changes to the Building and Land Use Ordinance regarding the Maine Uniform Building and Energy Code (MUBEC) referenced by the town meeting warrant.

Gravel Task Force – Members of the recently appointed Gravel Ordinance Task Force met with the Selectmen. Bernie asked if anyone was missing. Stu said Don Bamman was unable to attend. Jo said it was a chance to review the charge from the Selectmen, gather some thoughts, and set up a schedule. Cynthia said she had some changes to suggest for the draft process. Jo said she wanted to talk generally first. She said the purpose is to make recommendations to the Selectmen in regard to the gravel ordinance.

Perry Fowler said he would think there is some direction to follow. Jo said she didn't want to limit the discussion to the bullet points in the memorandum. Bernie said he presumed there would be minutes and this would be some sort of sounding board. He said he would like to see an honest information exchange.

Jo asked if there were other areas of concern. Cynthia said the task force is not designed to write a land use ordinance. She said that's in the purview of the Planning Board. She said she would like to see a report from the task force.

Valerie Sprague said she would like to see the group come up with rationales for any changes that might be suggested. Jo said the report may also contain some recommendations for the Comprehensive Plan. Perry Fowler said there could be several suggested scenarios for various items. Jay Fowler said no one seems to be talking back and forth about the issues, and there is a need to talk it all over. Discussion followed on how discussions should take place, whether there was enough diversity within the group, and how to solicit public input.

There were questions on how to keep minutes and have the meetings on television. Jo suggested that Stu be the group's scribe. Jay 2nd. There was no objection.

There was a suggestion that the first few minutes of each meeting be set aside for brief public comment. Cynthia suggested writing down the topics on the white board.

It was requested that the current gravel ordinance be supplied to members of the task force. Jay Fowler said he would certainly reach out to people for their opinions on matters. Cynthia suggested changing the name task force to work group, and reviewed a written set of changes suggested to the draft process document. A copy of the proposed process was handed out, as were Cynthia's suggestions.

It was agreed that for any paid consultants, the Selectmen would have to give prior approval, but unpaid information could be solicited without such approval.

Richard McMullen said the issues have to be limited to some point, or the work would never be accomplished. There was no objection to adding Cynthia's suggestions to the process document.

Schedule – members said Thursday nights worked best for them. The next meeting of the task force will be on February 27, 2014 as the Selectmen will not be meeting that evening due to a scheduling conflict. Stu said he was unable to attend, and someone else will take notes. The meeting will begin at 7:00 PM and end at 8:30 PM.

David Legere asked that a copy of the former ordinance also be sent to the task force.

Next Meetings – The Selectmen will hold their regular meeting on February 13, 2014 and the next regular meeting following that will be on March 6, 2014.

Town Report – Cynthia had a few minor corrections to the town report which she had written. No other changes were proposed.

Web Site Server – Stu reported the town's website is down due to an intrusion on the server that hosts the site in house. He said Brett Jones is working on installing the new server and that will play havoc with e-mail for the next few days.

Comprehensive Plan – Bernie asked what the status was on the Comprehensive Plan update. Jo said it's on the town meeting warrant for funding and appointment approval.

There being no further business, the meeting adjourned at 8:38 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen